

Remarks

The specification and claims have been amended to provide further clarification and to provide adequate coverage for Applicants' contribution to the art. FIG. 6A has been submitted to conform the drawings to the remainder of the specification and claims. The amendments are clearly supported by the original disclosure, particularly at page 8, lines 22-24 regarding basis weight; page 14, lines 6-9 regarding reduced irritation; page 14, lines 17-29 regarding notch depth; and original Figures 4 and 5. It is respectfully submitted that no new matter has been added. Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

The Examiner has objected to the description. In view of the amendments to the description, it is respectfully submitted that the objections have been obviated.

The Examiner has objected to the drawings. In view of the amendments to the drawings, it is respectfully submitted that the objections have been obviated.

The Examiner has objected to claims 1-33. In view of the amendments to the claims, it is respectfully submitted that the objections have been obviated.

The present invention provides an absorbent article comprising an absorbent, the absorbent article being configured for disposition within the vestibule of a female wearer, the absorbent having a substantially circular geometry and a periphery, and the absorbent having at least one notch situated in its periphery. Further aspects of the invention are set forth in the specification and claims.

As understood by Applicants' attorney, claims 1-5 have been rejected under 35 U.S.C. § 102(b) as allegedly being unpatentable over U.S. Patent 5,738,212 to Pollard et al. (hereinafter, Pollard). The rejection is respectfully **traversed**.

As described by Pollard, a fibrous pads package comprises a lightweight dispensing package having a dispensing opening and a plurality of discrete fibrous pads sequentially disposed in the dispensing package in an abutting relationship with each other. Each of the plurality of fibrous pads comprises a cleansing portion and a gripping portion of a predetermined size and shape. Each of the pads may have a transitional portion between the cleansing portion and the gripping portion. The cleansing portion has a cleansing portion thickness and a cleansing portion flexural rigidity; and the gripping portion has a gripping portion thickness and a gripping portion flexural rigidity. The cleansing portion thickness is at least about 10% greater than the gripping portion thickness, and the cleansing portion flexural rigidity is at least about 100% less than the gripping portion flexural rigidity. The gripping portion has a distinct gripping edge. The gripping edges of the plurality of fibrous pads

are separable from one another such that the gripping edges may be spaced apart for dispensing. Optionally, the plurality of pads may be compressed within the dispensing package.

Pollard, however, does not disclose or suggest an absorbent article configured for disposition within the vestibule of a female wearer. Pollard also does not teach an absorbent article having at least one notch extending through the entire z-direction thickness in the configurations called for by the claimed invention. Neither does Pollard disclose or suggest an absorbent article having an absorbent in combination with a cover and/or baffle, as called for by particular claims. As a result, the structures taught by Pollard would be less able to provide desired levels of low irritation, comfort, and leakage protection, during the intended wearing of the article. It is, therefore, readily apparent that Pollard does not disclose or suggest the invention called for by the currently presented claims. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) are respectfully requested.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) are respectfully requested.

As understood by Applicants' attorney Claims 1-6, 8-15, 17-23, 25-31 and 33 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over WO 98/29078 by Procter & Gamble (PG '078), in view of WO 98/57609 by Procter & Gamble (PG '609). This rejection is respectfully **traversed** to the extent that it may apply to the currently presented claims.

PG '078 describes an interlabial absorbent structure. The interlabial absorbent structure comprises a **pair of absorbent** panels that are sufficiently flexible such that the panels can, at least partially, conform to the walls of a wearer's interlabial space. The panels are joined by an **isthmus** which is **positioned furthest into a wearer's interlabial space** when the interlabial absorbent product is worn. Alternative embodiments of the isthmus are also described which direct bodily fluids that are deposited thereon along the longitudinal length of the interlabial absorbent structure. If desired, each panel 22 can also comprise other optional components. For example, each panel could comprise a topsheet as its body contacting surface and/or a backsheet as its rear surface. If the interlabial absorbent structure also comprises a topsheet and a backsheet, the topsheet and the backsheet are preferably joined to each other along the distal edge and the end edges of each panel.

PG '078, however, does not disclose or suggest an absorbent article having the substantially circular geometry called for by the presented claims. As a result, the structures taught by PG '078 would be less able to provide desired levels of leakage protection, comfort, flexibility and low irritation during an intended wearing of the article. It is, therefore, readily apparent that PG '078 does not disclose or suggest the invention called for by the currently presented claims.

Recognizing that PG '078 does not teach the claimed invention, the rejection has been based on a combination of PG '078 with PG '609.

PG '609 describes absorbent devices that are worn interlabially by female wearers for catamenial purposes, incontinence protection, or both. The interlabial absorbent device comprises a main absorbent portion and a pair of flexible extensions joined to the main absorbent portion. The main absorbent portion has a distal surface and comprises an acquisition member and at least one storage member, in fluid communication with the acquisition member, that is disposed laterally outboard of the acquisition member. In use, the **distal surface** of the main absorbent portion is **positioned furthest inward into the space between the wearer's labia majora**. The pair of flexible extensions extends downwardly and **laterally outward from the distal surface**, and preferably is capable of maintaining contact with the inside surfaces of the wearer's labia majora when the wearer's body goes through a range of motions. Additionally, the flexible extensions are preferably capable of covering the fingertips of the wearer as the absorbent device is inserted into the interlabial space. The interlabial device further preferably comprises a backsheet that is disposed on the surface of the flexible extensions that is opposite the body contacting surface thereof and on all surfaces of the main absorbent portion except the proximal surface. The flexible extensions can be generally rectangular, semicircular, trapezoidal, or triangular in shape.

It is well established that a prior art reference must be evaluated **as an entirety** and that the prior art must be evaluated **as a whole**. Where neither any reference considered in its entirety, nor the prior art as a whole, suggests the combination claimed, the invention is non-obvious. Where the cited references do not teach how make the particular combinations needed to arrive at the invention called for by Applicants' claims, the claimed invention cannot be deemed "obvious".

As described by PG '609, the pair of flexible extensions extends downwardly and laterally outward **from the distal surface** of the main **absorbent** portion, which during use is **positioned furthest inward into the space between the wearer's labia majora**. Accordingly, a proper combination of PG '609 with PG '078 would **not** lead a person of ordinary skill to the configurations called for by the currently presented claims. Instead, the person of ordinary skill would be instructed to attach the flexible extensions taught by PG '609 to extend from the middle, isthmus region of the article taught by PG '078 (the portion that would be positioned furthest inward into the space between the wearer's labia majora during use). As a result, a proper combination of PG '609 and PG '078 would **not** provide the article having the substantially circular absorbent in the configurations called for by the claimed invention. The arrangements taught by a proper combination of PG '609 and PG '078 would consequently be less able to provide desired levels of leakage protection, comfort, flexibility and low irritation during the intended wearing of the article.

Furthermore, it is well established that it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art to generate the claimed invention. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. It is respectfully submitted that the modifications urged by the Examiner represent an impermissible use of hindsight. In the absence of Applicants' disclosure, a person of ordinary skill would not be led to the changes needed to synthesize the claimed invention. Instead, the person of ordinary skill would be **led away** from the claimed invention to other markedly different arrangements. It is, therefore, readily apparent that a proper combination of PG '078 and PG '609 would not disclose or suggest the invention called for by the currently presented claims.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 are respectfully requested.

As understood by Applicants' attorney, Claims 7 and 32 have been rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over PG '078 and PG '609 in view of WO 98/29075 by Procter & Gamble (PG '075). This rejection is respectfully **traversed** to the extent that it may apply to the currently presented claims.

PG '075 discloses absorbent devices, and more particularly absorbent devices that are worn interlabially by female wearers for catamenial purposes, incontinence protection, or both. The absorbent interlabial device of the present invention comprises a main absorbent portion comprising a pleated structure and a pair of flexible extensions joined to the main absorbent portion. The main absorbent portion comprises an upper portion, and a lower portion opposed to the upper portion. In use, the **upper portion is positioned furthest inward into the space between the wearer's labia majora**. The pair of flexible extensions extends downwardly and laterally outward **from the upper portion of the main absorbent portion**, and preferably is capable of maintaining contact with the inside surfaces of the wearer's labia majora when the wearer's body goes through a range of motions, including squatting. Additionally, the flexible extensions are preferably capable of covering the fingertips of the wearer as the absorbent device is inserted into the interlabial space.

PG '075, however, fails to cure the deficiencies of PG '078 and PG '609. As a result, a proper combination of PG '075 with PG '078 and PG '609 would still fail to disclose or suggest the article having the substantially circular absorbent in the configurations called for by the currently presented claims. The structures taught by a proper combination of PG '075 with PG '078 and PG '609 would remain less able to provide desired levels of leakage protection, comfort, flexibility and low irritation during an intended wearing of the article. It is, therefore, readily apparent that a proper combination

of PG '075 with PG '078 and PG '609 would not disclose or suggest the invention called for by the currently presented claims.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 are respectfully requested.

Claims 16 and 24 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over PG '078 and PG '609 in view of U.S. Patent 5,484,429 of Vukos et al. (Vukos '429). This rejection is respectfully **traversed** to the extent that it may apply to the currently presented claims.

As described by Vukos '429, an interlabial sanitary pad includes a pick-up module containing an absorbent which is adapted to fit in or adjacent to a vaginal opening, a capacity module containing an absorbent which is adapted to be positioned remote from the vaginal opening, and fluid-wicking fibers serving as the absorbent and further communicating with both the pickup and capacity modules for carrying fluid from the pickup module to the capacity module. The fluid-wicking fibers are longitudinally oriented and packed in the capacity module at a bulk density greater than in the pickup module. The pickup module has a fluid-pervious cover, while the capacity module has a fluid-impervious baffle capable of containing fluid therein. The capacity module can have a flattened fan shape and can contain superabsorbent.

Vukos '429, however, fails to cure the deficiencies of PG '078 and PG '609. As a result, a proper combination of Vukos '429 with PG '078 and PG '609 would still fail to teach the invention called for by the claimed invention. The structures taught by a proper combination of Vukos '429 with PG '078 and PG '609 would remain less able to provide desired levels of leakage protection, comfort, flexibility and low irritation during an intended wearing of the article. It is, therefore, readily apparent that any proper combination of Vukos '429 with PG '078 and PG '609 would still fail to disclose or suggest the invention called for by the currently presented claims.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 are respectfully requested.

Claims 1-33 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 of copending Application No. 10/036,990 (2002/0193769A1) in view of PG '609.

A Provisional Terminal Disclaimer is enclosed. In view of the provisional terminal disclaimer, it is respectfully submitted the provisional, obviousness-type double patenting rejection has been overcome.

The prior art made of record and not relied upon is considered pertinent to Applicants disclosure. It is readily apparent that such art does not disclose or suggest Applicants' claimed invention.

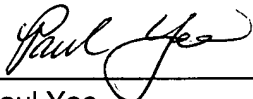
For the reasons stated above, it is respectfully submitted that all of the currently presented claims are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections, and allowance of Applicants' presented claims are earnestly solicited.

Please charge any prosecutorial fees that are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-2435.

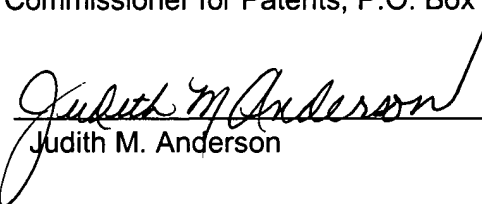
Respectfully submitted,

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CERTIFICATE OF MAILING

I, Judith M. Anderson, hereby certify that on November 21, 2003 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: 
Judith M. Anderson